



*A Public Policy and Advocacy Institute*

April 17, 2006

*via fax and US mail*

Richard Clark  
Director  
Consumer Protection and Safety Division  
505 Van Ness Avenue  
San Francisco, CA 94112

Re: Comments on Draft Resolution UEB-001, the Slamming Citation Program

Dear Mr. Clark,

On behalf of Latino Issues Forum (LIF), I submit these comments on the Consumer Protection and Safety Division's (CPSD) Draft Resolution UEB-001 regarding the adoption of a citation program for enforcing compliance with Public Utilities Code 2889.5. LIF agrees with Decision 06-03-013 that an expedited slamming citation process will facilitate enforcement of consumer violations by the California Public Utilities Commission ("the Commission"). In general, LIF is supportive of the citation program as it appears in the Draft Resolution. We make a number of comments on specific provisions of the program below.

**The Citation Program is Fair to Carriers.** As described in the April 11 workshop, carriers will have the benefit of an informal process of progressive enforcement, including several opportunities to resolve the alleged violation, prior to even being investigated as part of the citation program. Notice to carriers of an alleged violation is amply provided. Because of expected backlog of investigations, carriers will have at least a month, and most likely more time, to resolve the matter. This informal opportunity to resolve the alleged violation, prior to the investigation process described in ¶2 of the Draft Resolution will ensure that innocent violations of third party verification (TPV) procedures will not result in citations. Once investigation of alleged violations begins, LIF is confident that the CPSD will be even-handed. LIF supports the upper threshold of \$20,000 in fines within a 90 day period. Given the informal resolution process described above, if a carrier still manages to accrue \$20,000 in fines within a 90 day period, a more formal process accepting the participation of consumer advocates is appropriate.

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**Posting of Citations Issued on the Commission Website.** LIF strongly supports the posting of citations issued on the Commission's website. Posting of citations will be valuable as a deterrent to unscrupulous activities. Information about citations should be posted onto the Commission's website 30 days after the citations are issued, allowing appeals of citations by carriers to be noted. The results of the appeals should also be noted.

The information posted will also help consumer advocates spot unscrupulous companies and track trends in slamming violations. For this reason, as much information possible concerning the nature of the citation should be posted on the website. Each individual citation issued should be posted, along with the carrier cited, and the amount of the fine issued. A brief standard description of the type of violation underlying the citation should be provided (e.g., a note on which provision of ¶1 the carrier violated), and the types of service involved. Citations should be grouped by the carrier cited. If possible, another view should be presented with citations listed chronologically.

**CPSD Action Leading to Revocation of Carrier's Authority to Conduct Business.** LIF believes that in order for the slamming citation program to be successful, it must "have teeth." For this reason, LIF supports the procedures contained in ¶8 of the Draft Resolution. As described above, before a citation is even investigated, the carrier has been given numerous opportunities at resolution. Once the citation is issued, the carrier is given an additional 30 day period to appeal. If the carrier takes no action within this time period, it is appropriate to hold a carrier responsible for the citation.

If, after numerous notices and opportunities to address a citation, a carrier ignores fines issued by CPSD, CPSD must be able to escalate enforcement activities. One change in the resolution LIF suggests is rather than stating that CPSD "may" take action to have the Commission revoke the respondents authority, CPSD "will" take that action for any carrier that has not paid a citation or that has not made arrangements to pay the citation in installments (as was discussed in the workshop). The removal of discretion here will prevent potential arbitrary enforcement against only certain carriers.

It may be that some of penalties described in ¶8 are beyond the authority of CPSD and must be taken by the Commission. If this is the case CPSD action would be merely to recommend the penalties to Commission. The Commission should act quickly on CPSD's recommendations. CPSD recommendations should be placed on the consent agenda of the Commission's meetings on a timely basis. By the time of Commission action, a carrier will have had numerous opportunities to counter or resolve the citation against it, so that a consent decision by the Commission is appropriate.

**Contention of Factual Issues/ Fraudulently Obtained TPVs.** LIF has observed many instances where an authorized person has given a TPV that is valid on its face, but the TPV was obtained fraudulently, through promising things that were not delivered. The Draft Resolution may have a provision for including some such instances in the citation process (see ¶1.b.iii.). However, LIF believes that as the citation process is to be an expedited process, focused on *prima facie* defective TPVs, and without much contention of factual

issues, many of these violations will not be included in the citation process. LIF understands that an expedited process such as proposed here has its limitations. However, we would like to ensure that these types of slamming violations are not lost between the citation process and other processes.

Thank you for developing the slamming citation program and for the opportunity to comment on its development. Feel free to contact me at (415)547-7550 should you have any questions.

Best Regards,

Enrique Gallardo  
Staff Attorney

cc: Linda Woods  
Workshop Participants  
R.00-02-004 Service List